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A Plea for the late Agents of the Army, against the proceedings of the Gen. Officers to punish them by Martiall Law.

First. **T**He arbitrary Government of the Army by Law Martiall (which is only necessary when an Army is marching against its enemy, or when no other Courts of justice in a land are open and free) was wholly dissolved at the Rendezvous at New-market, upon the 4. and 5. of June last, and this I prove by these following reasons.

1. They associated themselves only as a company of free Commons of England, to stand together upon the just principles, and law of nature and nations, to recover their own and all the peoples just rights and liberties. See the Solemn Engagement upon June 4. The words are these. *We the Officers and Soldiers of the Army subscribing hereunto, doe hereby declare, agree, and promise to and with each other, that we shal not wilfully misband, nor divide, nor suffer our selves to be disbanded nor divided, untill we have security, that we as private men, or as the free-borne people of England, shall not remaine subiect to the like oppression, injury, or abuse as have been attempted.* Compare the latter end of page the 4. with page 5. And upon their march towards London, in prosecution of this designe, whereupon they associated, the Generall declared in his letter to the City, that they as English men insisted upon the settlement of the peace of the Kingdome, and the liberty of the Subiect, which they had right to demand. See the letter from the Generall, and the Generall Officers at Royton upon June 10. pag. 2. 3. And in their further opening of their meaning and intentions in their agreeing together, or associating as before, they declared upon June 14. That they were not a mercenary Army, hired to serve the Arbitrary power of a State, but continued in Arms in judgment and conscience for the defence of their own and the peoples just rights and liberties. Now the Army thus refusing to serve the arbitrary power of the State, and agreeing together as English men, to stand upon principles of right and freedome. From hence,

1. It is cleare, that the Officers and Soldiers kept in a body, and so were an Army, not by the will of the State, but by their owne mutual Agreement.

2. From thence it is as cleare, that they not being an Army by the State

States will, they were not under those rules of Martial Government, which were given by the will of the State to rule those which were a Military body or Army by their will and power.

3. From thence it also as cleare, that the continuing an Army at that time, not by the States will, power or command, but their mutual agreement, they could be under no other government as an Army but such as they did constitute or appoint for themselves by mutual agreement, and this leads to a 2. Reason, proving the dissolution of the Armes government by Martiall law.

2. The Soldiers with some Officers of the Army, having by mutual agreement gathered themselves into, or at least continued themselves a Military body or Army to stand upon principles of right and freedom, did by the same mutual Agreement with or Engagement to each other frame, constitute, or appoint a forme of Government for themselves in their prosecuting that just designe of common right and freedom for themselves and the nation.

The words of the Engagement, pag. 4. 5. are these. *We doe hereby declare, agree, and promise to and with each other, that We shall not willingly disband, nor divide, nor suffer our selves to be disbanded or divided without satisfaction in relation to our grievances and desires, but so as presented to security that We as private men or other the free born people of England, shal not remaine subiect to the like oppression and injury, as have been attempted, and this satisfaction and security to be such as shall be agreed unto by a Councell to consist of those generall Officers of the Army (who have concurred with the Army in the premises) with two Commission Officers, and two Soldiers to be chosen for each Regiment, who have concurred and shall concur with us in the premises and in this agreement. Hereby a new Councell was constituted contrary to all Martiall Law and Discipline, by whom only they ingaged to be ordered in their prosecution of the ends for which they associated, and in consequence seeing they continued an Army by their owne will, and only to prosecute those ends, this Engagement to be ordered only by that new Councell in their prosecution of those ends extends to a whole rule of them as an Army.*

Now that this Councell was wholly new, and in away diverse or different from all Martiall Courts or Councell of Warre, that ever the Sun beheld in a mercenary Armie. and as different from the Councell by which this Army was formerly governe d appears thus.

1. The Members of this Councell by which they ingaged to be ordered

in the Army.

1. The quality of them is different, none but such as concurred with, in disobeying the Parliament, and in the principles of common right and freedome upon which they stood, were to be Members of this Councell, neither the Generall, nor the Lievtenant Generall themselves were to be Members of this Councell unlesse they had concurred in owning the Regiments refusal to disband, and in their ingagement or association, and by consequence they had been no Officers as will appeare hereafter.

In this all the Orders of warre and Martiall Lawes were broken, for if the Generall, Lievtenant Generall, and Comissary Gen. Ireton, had not concurred, they could not all have cashiered one Officer that did concur, all the Soldiers had been ingaged to oppose them, nay they could not have cashiered one Soldier that joyned in the ingagement, for they promised each to other, not to suffer themselves to be divided before the ends of their Engagement was accomplished.

2. In this new Councell, the station of the Members in the Army is different from the station of all Members of former Councells, by the Engagement, there was to be two Soldiers in no office, out of every Regiment to have voices equall to the Generall himself in all votes.

3. The number of the Members of this Councell is different from all customes and rules of Martiall Discipline in this Councell, there was to be but foure of every Regiment, with the Generall Officers which concurred.

2. This new Councell differed from the rules of warre in the manner of its constitution, this was not to be constituted by the Gen. will, but in a Parliamentary way by the Soldiers free election, the Gen. is bound from calling an Officer to the Councell unlesse he be chosen by his Regiment.

3. Reason, proving the dissolution of Martiall Government in the Army.

The Gen. in associating with the Soldiers did in the very Engagement, give away all his power of exercising Martiall discipline, he ingaged to them and they to him, that they would not suffer themselves to be disbanded or divided, till the ends of their uniting were obtained hereby he divested himself of his arbitrary power of cashiering Officers and Soldiers at his pleasure, this is a dividing which he ingaged nei-

ther to attempt nor suffer likewise he divested himself of power to command the Soldiers to march to what distance he pleaseth out from another this is another kind of division.

4. Reason, proving the dissolution of the government by law martiall.

The whole Army by agreement or joint consent, cashiered all Officers at *New market Heath*, that would not associate with them, and ingage to stand for common right and freedom though against the Parliament, & so they horridly divers Officers out of the field, unhorsed some and rent their cloaths, and beat them: and this in the face of the Gen. and all these acts had been death by Martiall Law: But this was an actual declaration that the Army did admit of Officers by mutuall agreement only, and therefore Government by law Martiall was dissolved, unlesse it had been established by mutuall consent throughout the Army, for Officers at that time being only admitted by mutuall consent they could have no power, but what was bestrusted to them by the Soldiers.

2. Plea; But in case the government of the Army by law martiall had not been dissolved by a mutuall ingagement, yet the very being of peace did dissolve it, for in the Petition of Right its declared that no person ought to be adjudged by law martiall except in time of war, & that all Commissions given to execute martial law in time of peace are contrary to the lawes and statutes of the Kingdome, and it was the Parliaments complaint that martiall law was then commanded to be executed upon Soldiers for robbery, muteny or murder, and it was settled as the undoubted right of every English man, that he should be punishable only in the ordinary Courts of justice, according to the lawes and statutes of the kingdome. By all this it appears that its illegal and unjust for the Officers of the Army to try or punish any agent or other by law martiall upon pretence of muteny or any other offence the whole Army stand as English men, and if they stand are not exempted from the proceedings against them, & punishments to be inflicted upon them by the lawes and statutes, and therefore cannot in justice be subject also to law martiall, so that all Agents and Soldiers now accused for mutiny betray their own and their Countryes Liberty, if they shall submit to be tryed in any other way then by the known Lawes and Statutes of the Land.

Courteous Reader, Mr. Matthew Simmons in *Albiongate Street*, by speciall Order from the Lords, printed all the Armys declarations in one volume which thou mayest buy of him for 12. or 14. d. in the reading of which comparing them with the constant (sense) of their actions, thou shalt clearly see that there was never greater dissensions & back slings amongst the most wise sons of men, from their declared principles, & thou & the kingdom must principally blame Lie. Ge. Cromwell and his son in Law, Com. Gen. Iveson, being both now transcendently Kingified and Lordified.

FJNIS.

